

CHAPTER 1

GENERAL PROVISIONS

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1 - 1. Short title.

This title and all chapters within it shall be known as the Tooele County Land Use Ordinance, and may be so cited and pleaded. The term "county" as used in this title refers to the unincorporated areas of Tooele County and does not include the incorporated municipalities of Grantsville, Rush Valley, Stockton, Tooele, Ophir, Vernon, and Wendover. (Ref UCA §17-27a-103, 17-27a-501, Ord 2005-22, 9/13/05)

1 - 2. Purpose.

The Tooele County Land Use Ordinance is designed and enacted for the purpose of promoting the health, safety, comfort, convenience, order, prosperity, aesthetics and welfare of the present and future inhabitants of Tooele County. This is accomplished by the lessening of congestion on the streets, securing safety from fire and other dangers, providing adequate light and air, classifying land uses, distributing land development and utilization, protecting the tax base, securing economy in governmental expenditures, fostering agriculture and other industries, and protecting urban and nonurban development. (Ord 2005-22, 9/13/05)

1 - 3. Penalties.

(1) No land, building or structure shall be used for any purpose not allowed in the zone in which such land, building or structure is located.

(2) Any person who violates any provision of this title is guilty of a class C misdemeanor upon conviction. In addition, the provisions of this title

may also be enforced by injunction, mandamus, abatement, civil penalty, or any other remedy provided by law.

(3) Any person, corporation or other entity, whether as owner, occupant, agent or employee, who causes, permits or otherwise participates in any violation of the provisions of this title may be held responsible for the violation, suffer the penalties, and be subject to the remedies provided by law.

(4) Whenever any act or omission is made unlawful in this land use ordinance, it shall include causing, permitting, aiding, or abetting such act or omission.

(5) Any one, all, or any combination of the penalties and remedies set forth in this section may be used to enforce the provisions of this title.

(6) Each day that any violation continues after notification by the zoning administrator that such violation exists shall be considered a separate offense for purposes of penalties and remedies set forth in this title.

(7) Accumulation of penalties for continuing violations, but not the obligation for payment of penalties already accrued, shall stop upon correction of the violation. (Ord 2005-22, 9/13/05)

1 - 4. Violation - Notice and order.

(1) Upon discovery that any provision of this title is being violated, the zoning administrator shall provide a written notice of violation and order to the property owner and to any other party who may be responsible for the violation.

(2) The written notice and order shall:

(a) indicate the nature of the violation;

(b) order the action necessary to correct the violation;

(c) give information regarding the established warning period for the violation; and

(d) state the action the zoning administrator intends to take if the violation is not corrected within the warning period.

(3) The written notice shall be posted on-site if possible and delivered personally or mailed to the property owner, as shown on the records of the county recorder, and to any other person who may be responsible for the violation.

(4) The written notice shall serve to start any warning periods provided in this title, commencing upon receipt of notice. Receipt of notice shall mean three days after the date written notice is delivered or mailed as provided herein. If the violation remains uncured

the violation was injury to persons or property;

(5) In cases where the zoning administrator determines that a delay of enforcement would pose a danger to the public health, safety or welfare, or would otherwise compromise the effective enforcement of this land use ordinance, the zoning administrator may seek immediate enforcement without prior written notice by instituting any of the remedies, other than civil penalties, authorized by this land use ordinance. (Ord 2005-22, 9/13/05)

1 - 5. Civil penalties.

(1) Any person having received notice of a violation, or the owner of any affected property, may appear before a hearing officer and present and contest such alleged violation of this title.

(2) The burden to prove any defense shall be upon the person raising such defense.

(3) If the hearing officer finds that no violation occurred or that a violation occurred but one or more of the defenses set forth in this section is applicable, the hearing officer may dismiss the notice of violation. Such defenses are:

(a) at the time of the receipt of the notice of violation, compliance would have violated the criminal laws of the state; and

(b) compliance with the subject land use ordinance would have presented an imminent and irreparable injury to persons or property.

(4) No action by a hearing officer shall relieve the violator from complying with any of the provisions of this title.

(5) Abatement for Correction and Payment.

(a) Civil penalties shall be partially abated after the violation is cured and in the discretion of a hearing officer considering the following guidelines and factors:

(i) Reductions are generally appropriate for promptly curing the violation pursuant to the following schedule, but the hearing officer may grant greater or lesser abatements depending on the facts of the case:

1. Cured within time specified - fine totally waived;
2. Cured within sixty days after notice -- fifty percent fine reduction; or
3. Cured within ninety days after notice -- twenty-five percent fine reduction;

(ii) if strict compliance with the notice and order would have caused an imminent and irreparable (iii) if the violation and inability to cure were both caused by a force majeure event such as war, act of nature, strike or civil disturbance;

(iv) other mitigating circumstances as may be approved by the attorney or designee; or

(v) if a change in the actual ownership of the property was recorded in the recorder's

office after the notice was issued and the new owner is not related by blood, marriage or common ownership to the prior owner.

(b) If the hearing officer finds that the noticed violation occurred and no applicable defense applies, the hearing officer may, in the interest of justice and on behalf of the county, allow for the delayed or periodic payment of the applicable penalty. (Ord 2005-22, 9/13/05)

1 - 6. Enforcement.

(1) The zoning administrator is a land use authority and is authorized as an enforcing officer for all chapters of this land use ordinance. The zoning administrator shall uphold this land use ordinance, judiciously insuring full compliance with all county ordinances by entering actions in court if necessary. The administrator's failure to do so shall not legalize any violations of such provisions.

(2) The Tooele County Commission may, by resolution or ordinance, from time to time entrust administration of this land use ordinance, in whole or in part, to another officer of Tooele County, without amendment to this land use ordinance. (Ord 2005-22, 9/13/05)

1 - 7. Building permit required.

The construction, alteration, repair, erection, placement, or removal of any building, structure, mobile home, modular home, manufactured home, office trailer or part thereof as provided or as restricted in any chapter of this land use ordinance shall not be commenced or continued except after review by the zoning administrator or designated representative and a written permit from the building inspector. If work is not started or substantial progress is not made within 180 days a new permit will be required. (Ord 2005-22, 9/13/05)

1 - 8. Occupancy permit required.

(1) Land, buildings or premises in any zoning district shall hereafter be used only for a purpose permitted in such district and in accordance with the zoning district regulations. An occupancy permit shall be issued by the zoning administrator, chief building official or designated representative to the effect that the use, building or premises will conform to the provisions of this land use ordinance and other related ordinances prior to occupancy, for any building that has been erected, enlarged or altered structurally, or the occupancy or use of any land, except for permitted agricultural uses. Such a permit is needed whenever the use or character of any building or use of land is to be changed.

(2) An occupancy permit shall be issued after the approved final inspection, which shows completion of a building permit. Upon written request from the owner, a permit shall be issued covering any lawful use of buildings or premises, including nonconforming buildings and uses existing on the effective date of this land use ordinance and any subsequent amendments. (Ord 2005-22, 9/13/05)

1 - 9. Site plans required.

A detailed plan of appropriate scale and sheet size as determined by the zoning administrator shall be filed as part of any application for a land use or building permit. (Ord 2005-22, 9/13/05)

1 - 10. Inspection.

(1) The zoning administrator, the chief building official or their designated representatives are authorized to inspect or to have inspected all buildings and structures in the course of their construction, modification or repair, and to inspect land uses to determine compliance with the land use ordinance provisions. The zoning administrator or any authorized employee of the department of engineering shall have the right to enter any building for the purpose of determining the use, or to enter premises for the purpose of determining compliance with this land use ordinance, provided that such right of entry is to be used only at reasonable hours, unless an emergency exists. In no case shall entry be made to any occupied building in the absence of the owner, representative, employee or tenant thereof, without written permission of an owner, or written order of a court of competent jurisdiction. (Ord 2005-22, 9/13/05)

1 - 11. Interpretation.

In interpreting and applying the provisions of any chapter of this land use ordinance, the requirements contained herein are declared to be the minimum requirements for the purposes set forth. (Ord 2005-22, 9/13/05)

1 - 12. Conflict.

This land use ordinance and any chapter contained within shall not nullify the more restrictive provisions of covenants, agreements, or other ordinances or laws, but shall prevail over any such provisions which are less restrictive. (Ord 2005-22, 9/13/05)

1 - 13. Validity.

If any chapter, section, subsection, sentence, clause, or phrase of this land use ordinance is for any reason held to be invalid, such holding shall not affect the validity of the remaining

portions of this land use ordinance. (Ord 2005-22, 9/13/05)

1 - 14. Effect on previous ordinances.

(1) Those zoning ordinances and chapters enacted prior to January 10, 1975, covering zoning, in their entirety are hereby superseded and amended. The intent of previous zoning ordinances and the revisions made to them is included in this land use ordinance, whether in the same or in different language.

(2) This land use ordinance shall be interpreted to questions of conforming or nonconforming uses, buildings and structures, and as to the dates upon which such uses, buildings, or structures became conforming or nonconforming. (Ord 2005-22, 9/13/05)

1 - 15. Amendments.

The county commission may from time to time amend the number, shape, boundaries or areas of any district, or regulation, or any provision of this land use ordinance. Any amendment shall not be made unless:

(1) the same shall have been proposed by or first submitted to the planning commission for its approval, disapproval and recommendations, and

(2) the county commission has held a public meeting on the proposed amendment. (Ref UCA § 17-27a-502, Ord 2005-22, 9/13/05)

1 - 16. Notice.

When application is made to amend a zoning district or portion thereof, notice of the public hearing shall be made by publication in a newspaper having general circulation within Tooele County, at least ten days in advance of the hearing. (Ref UCA §17-27a-205, Ord 2005-22, 9/13/05)

1 - 17. Permits or licenses.

All departments, officials and public employees of Tooele County which are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this land use ordinance and shall issue no permit or license for uses, buildings, or purposes where the same would be in conflict with the provisions thereof. Any permit or license, if issued in conflict with the provisions of this land use ordinance, shall be null and void. (Ord 2005-22, 9/13/05)